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**CERTIFICATE**

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Ch. S. S. C.

**Supreme Court of the United States**

**OCTOBER TERM, 1942**

**No. 889**

**RICHARD PHILIP ADAMS, JOHN WALTER BORDE-  
NAVE AND LAWRENCE MITCHELL,**

**vs.**

**THE UNITED STATES OF AMERICA AND JOHN S.  
RYAN, WARDEN**

**ON CERTIFICATE FROM THE UNITED STATES CIRCUIT COURT OF  
APPEALS FOR THE FIFTH CIRCUIT**

**FILED APRIL 6, 1943.**

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[fol. 1]

[File endorsement omitted]

**IN THE UNITED STATES CIRCUIT COURT OF  
APPEALS FOR THE FIFTH CIRCUIT**

No. 10,410

**RICHARD PHILIP ADAMS, JOHN WALTER BORDENAVE, and  
LAWRENCE MITCHELL, Appellants,**

**versus**

**UNITED STATES OF AMERICA, Appellee**

No. 10,568

**RICHARD PHILIP ADAMS, JOHN WALTER BORDENAVE, and  
LAWRENCE MITCHELL, Applicants,**

**versus**

**JOHN S. RYAN, Warden, Respondent**

**And Exception by United States of America**

**Application for Writ of Habeas Corpus**

**Certificate—Filed March 29, 1943**

The undersigned judges of said court, sitting for the decision of the above stated cases in said court, desire the instruction of the Supreme Court of the United States for the proper decision of the causes upon the questions of law below stated, and do certify them to the Supreme Court pursuant to Section 239 of the Judicial Code and Rule 37 of the Supreme Court.

**STATEMENT OF FACTS**

Case No. 10410 is an appeal from a conviction and a death sentence had in the District Court of the United States for the Western District of Louisiana on August 10, 1942, for the offense of rape, under Section 272 Third, and Section 278 of the United States Criminal Code, as amended, 18 U. S. C. A. § 451, 457. A question not raised on the trial, but raised on appeal, is whether the place of the commission of the offense was at the time within the jurisdiction of the

United States so as to make applicable the cited criminal [fol. 2] law. In aid of the appeal, and invoking as a precedent *Adams vs. United States*, decided by the Supreme Court Dec. 21, 1942, the appellants applied to this court for a writ of habeas corpus against the warden having them in custody, alleging the custody to be based on a void commitment for the single reason that the United States had no jurisdiction to punish the crime of rape at the place and time it was alleged to have been committed. This is case No. 10568. The order to show cause why the writ should not be issued was answered by the United States. The question presented by the main appeal, as to jurisdiction, is the same as that presented by the application for the writ of habeas corpus. The two matters were argued together and are before us for decision.

The proven facts are that the lands occupied by Camp Claiborne, in Rapides Parish in the Western District of Louisiana, were in the summer of 1940 under contract to be sold by Branch E. Smith to the United States, and were to be used for a national forest under the supervision of the Secretary of Agriculture. The Secretary of Agriculture by letter to the Secretary of War agreed to their use for military purposes. Title in fee simple was conveyed to the United States by Smith Dec. 19, 1940, and the act of sale was duly recorded the same day. On February 18, 1941, another act correcting the former one was made and recorded. Camp Claiborne, a military reservation, embracing several thousand acres, was thereafter established on the land, temporary buildings and tents were erected, and soldiers were stationed and being trained there, but no fort or arsenal or dockyard is shown to exist there. The three appellants, who were then and there soldiers in service at the camp, are charged with, and by the jury have been found guilty of, on the tenth day of May, 1942, within the limits of the camp, raping a civilian woman. At that time, and at the time of their trial, neither the Secretary of Agriculture nor the Secretary of War nor any other authorized person had in behalf of the United States filed with the Governor of Louisiana, or in any other manner prescribed by the law of Louisiana, a notice of acceptance of jurisdiction over the lands above mentioned, as provided in United States Code Title 40, Section 255, as amended by the Act of Oct. 9, 1940, 54 Stats. 1083.

[fol. 3] That Act provides:

"Notwithstanding any other provision of law, the obtaining of exclusive jurisdiction in the United States over lands or interests therein which shall have been or shall hereafter be acquired by it shall not be required; but the head or other authorized officer of any department or independent establishment of the Government may, in such cases and at such times as he may deem desirable, accept or secure from the State in which any lands or interests therein under his immediate jurisdiction, custody, or control are situated, consent to or cession of such jurisdiction, exclusive or partial, not theretofore obtained, over any such lands or interests as he may deem desirable and indicate acceptance of such jurisdiction on behalf of the United States by filing a notice of such acceptance with the Governor of such State or in such other manner as may be prescribed by the laws of the State where such lands are situated. Unless and until the United States has accepted jurisdiction over lands hereafter to be acquired as aforesaid, it shall be conclusively presumed that no such jurisdiction has been accepted."

In 1940 there was a statute in force, Dart's Louisiana Statutes § 2898, which provides:

"The United States may enter upon and occupy any land which may have been, or may be purchased or condemned, or otherwise acquired, and shall have the right of exclusive jurisdiction over the property so acquired during the time that the United States shall be or remain the owner thereof for all purposes, except the administration of the criminal laws of said State, and the service of civil process of said State therein, and shall hold the same exempt from all State, parochial, municipal or other taxation."

The questions of law upon which we desire to be instructed and which are necessary to be answered in order properly to decide the cause are these;

#### QUESTIONS CERTIFIED

1. Is the effect of the Act of Oct. 9, 1940, above quoted, to provide that, as to lands within a State thereafter acquired by the United States, no jurisdiction exists in the United States to enforce the criminal laws embraced in United States Code Title 18, Chapter 11, and especially

Section 457 relating to rape, by virtue of Section 451, Third, as amended June 11, 1940, unless and until a consent to accept jurisdiction over such lands is filed in behalf of the United States as provided in said Act?

2. Had the District Court of the Western District of Louisiana jurisdiction, on the facts above set out, to try and sentence the appellants for the offense of rape committed within the bounds of Camp Claiborne on May 10, 1942?

[fol. 4] Let this certificate be authenticated by the Clerk of this Court and forwarded to the Supreme Court of the United States.

This March 29, 1943.

(Name illegible), United States Circuit Judge. J. C. Hutcheson, jr., United States Circuit Judge. Leon McCord, United States Circuit Judge.

[fol. 5] Clerk's certificate omitted in printing.